

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re AQUA DOTS PRODUCTS LIABILITY LITIGATION	)	MDL No. 1940
	)	
	)	Case Number 1:08-cv-02364
	)	
This Document Relates To:	)	Honorable David H. Coar
	)	
ALL ACTIONS.	)	X <sup>1</sup> - Hon. Magistrate Judge Susan E. Cox
	)	

**INITIAL JOINT STATUS REPORT**

**I. Claims Asserted In Consolidated Amended Class Action Complaint.**

This matter was brought as a Class Action on behalf of all persons who purchased and/or acquired Aqua Dots toys—the children’s craft kit—that were manufactured, sold and/or distributed by defendants Spin Master Ltd. and Spin Master, Inc.” (collectively “Spin Master”), Moose Enterprise Pty Ltd. (“Defendant Moose”); Toys “R” Us, Inc.; Wal-Mart Stores, Inc.; and Target Corp. (“Target”) (collectively, “Defendants”), that allegedly contained a butanediol coating. Plaintiffs claim butanediol is an industrial solvent that the body converts into gamma-hydroxy butyrate (“GHB”) and that is commonly known as the “date-rape” drug because of the depressive effects it has on the central nervous system.

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<sup>1</sup> The “X” indicates that the filing is intended for Magistrate Judge Cox.

Plaintiffs timely filed, on Friday, May 30, their Consolidated Amended Class Action Complaint, asserting the following claims: Count One: Violation of the Illinois Consumer Fraud Act, 815 ILCS 505/1, et seq.; Count Two: Damages Under the Illinois Uniform Deceptive Trade Practices Act; Count Three: Alternative Claim for Relief Under the State Consumer Protection Laws; Count Four: Breach of Implied Warranty; Count Five: Breach of Express Warranty; Count Six: Negligence; Count Seven: Violation of the Consumer Product Safety Act (15 U.S.C. §2072) & Consumer Product Safety Rules (15 U.S.C. §1261, 16 C.F.R. §1303, 16 C.F.R. §1117.1 et seq., 16 C.F.R. §1500.18(A)(2)) (Against All Defendants); Count Eight: Strict Liability; and Count Nine: Unjust Enrichment.

Defendants are to answer or otherwise respond to the consolidated complaint by June 27, 2008. No counterclaim or third-party complaint has been filed.

## **II. Relief Sought.**

Plaintiffs seek actual, compensatory and consequential damages, as well as punitive and treble damages as available under relevant laws. Plaintiffs seek declaratory and injunctive relief, including an order requiring Defendants to implement appropriate safety systems. Additionally, Plaintiffs seek an order requiring Defendants to implement a full recall with reasonable procedures. Plaintiffs seek restitution and disgorgement of all monies acquired by Defendants. Plaintiffs also seek the costs of diagnostic screening and, for those who screened positive for toxic chemical ingestion, the cost of appropriate treatment. An award for experts' fees and attorneys' fees, and the costs for prosecuting this action will also be sought.

## **III. The Matter Was Referred to the Magistrate for Discovery Issues.**

Judge Coar referred this matter to this Court's calendar "for the purpose of holding proceedings related to all discovery motions and all discovery disputes". The Order Referring a Civil Case to the Magistrate Judge (Coar, J. May 19, 2008) is attached hereto as Exhibit A.

**IV. Status of Any Briefing On the Matters Referred.**

Presently, there are no pending discovery issues before the Court.

**V. Whether the Parties Will Consent to Trial Before a Magistrate Judge.**

The parties have not consented to this matter being referred to a magistrate for final disposition.

**VI. Status of Settlement Negotiations.**

The parties have discussed settlement is possible. Plaintiffs' counsel discussed possible measures of classwide relief and requested information from Defendants in order to attempt to formulate a settlement proposal. In that regard, Defendants provided information on May 30 as part of its discovery responses. Settlement has not advanced past these discussions.

DATED: June 2, 2008

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EXHIBIT A: Order Referring a Civil Case to the Magistrate Judge (Coar, J. May 19, 2008)

# Exhibit A

**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 3.1.3  
Eastern Division**

Aqua Dots Products Liability Litigation

Plaintiff,

v.

Case No.: 1:08-cv-02364

Honorable David H. Coar

Spin Master, Ltd., et al.

Defendant.

**ORDER REFERRING A CIVIL CASE TO THE  
DESIGNATED MAGISTRATE JUDGE**

Pursuant to Local Rule 72.1, this case is hereby referred to the calendar of Magistrate Judge Honorable Susan E. Cox for the purpose of holding proceedings related to all discovery motions and all discovery disputes for the MDL 1940, master docket # 08 C 2364, (including #s 07C6387 and 08C804).(pm, )Mailed notice.

Dated: May 19, 2008

/s/ David H. Coar

United States District Judge